

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

U. S. STEEL MINING COMPANY, LLC,

No. 00 CV 1758

Plaintiff

v.

Terrence F. McVerry
District Judge

WILSON DOWNHOLE SERVICES,

Defendant

**RESPONSE IN OPPOSITION TO WILSON DOWNHOLE SERVICES'
ORIGINAL MOTION TO CONFIRM ARBITRATION AWARD**

Respondent, U. S. Steel Mining Company, LLC (hereinafter "USM"), by undersigned counsel, files this Response in Opposition to Wilson Downhole Services' Original Motion to Confirm Arbitration Award, and states the following for the consideration of this Honorable Court.

First Response

1 - 2. Admitted. The parties did execute an Agreement of Reference to Arbitration, and the Court did stay proceedings pending arbitration.

3. Denied. Harry L. Griffin, Jr. ("Mr. Griffin") did not hear sworn testimony or otherwise arbitrate the case. Pursuant to the parties' Amendment to Agreement of Reference to Arbitration and Agreement to Mediate, Mr. Griffin mediated the case in Atlanta.

4. Denied. Mr. Griffin did not issue an award on March 10, 2006. While he wrote a letter to the parties indicating his selection of Wilson's best and final offer of \$294,333.52," Mr. Griffin failed to provide the rationale for his selection as required by paragraph 14 of the parties' Agreement of Reference to Arbitration [Exhibit A to the Motion]. In response to USM's objection to the March 10 letter and request for the requisite rationale, Mr. Griffin issued his award with the necessary explanation on March 29, 2006.

5. Denied. Wilson Downhole Services is not entitled to have the award confirmed or judgment entered on the award. The award is substantively and procedurally defective.

Second Response

6. In further opposition to the Original Motion to Confirm Award, USM incorporates herein by reference its Petition to Vacate Arbitration Award [Document Number 27] and the facts and legal arguments set forth in that Petition filed with the Court on July 3, 2006.

WHEREFORE, Respondent, U. S. Steel Mining Company, LLC, respectfully requests that the Motion to Confirm Arbitration Award be denied, and that the relief sought by U. S. Steel Mining Company, LLC in its Petition to Vacate Arbitration Award be granted.

Respectfully submitted,

Yukevich, Marchetti, Liekar & Zangrilli, P.C.

By: /s/ *Albert J. Zangrilli, Jr.*

Albert J. Zangrilli, Jr., Esquire
Pa. I.D. 15929

11 Stanwix Street, Suite 1024
Pittsburgh, PA 15222-1324
(412) 261 - 6780
email: azangrilli@ymlz.com

/s/ *Anthony F. Jeselnik*

Anthony F. Jeselnik, Esquire
Pa. I.D. 20650

Law Department
United States Steel Corporation
U. S. Steel Tower, Fifteenth Floor
600 Grant Street
Pittsburgh, PA 15219
(412) 433 - 2962
email: afjeselnik@uss.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of July, 2006, a true and correct copy of the foregoing Response in Opposition to Wilson Downhole Services' Original Motion to Confirm Arbitration Award has been served upon each of the following counsel of record electronically:

Geoffrey H. Bracken, Esquire
Gardere Wynne Sewell LLP
Wells Fargo Plaza
1000 Louisiana, Suite 3400
Houston, TX 77002-5007

Kimberly A. Brown, Esquire
Thorp Reed & Armstrong
One Oxford Centre, 14th Floor
301 Grant Street
Pittsburgh, PA 15219-1425

/s/ Anthony F. Jeselnik

Anthony F. Jeselnik, Esquire